



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 32/PUU-XXIII/2025**

Concerning

Requirements for Former Convicts in Regional Head Elections

- Petitioner** : **Petrus Ricolombus Omba**
- Type of Case** : Judicial Review of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Enactment of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (Law 10/2016) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Article 7 paragraph (2) letter g of Law 10/2016 as interpreted by the Constitutional Court Decision Number 56/PUU-XVII/2019, which regulates the requirements for former convicts who participate in regional elections, the Petitioner believes that such interpretation has violated the Petitioner's constitutional rights because the provision *a quo* does not ensure equal treatment and/or legal certainty regarding disciplinary violations between civil and military institutions, and therefore this provision is contrary to Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia
- Verdict** : 1. To grant the Petitioner's petition in part
2. To declare that Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Enactment of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) as amended by the Constitutional Court Decision Number 56/PUU-XVII/2019, dated December 11, 2019, is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as
- "g. for former convicts, except for those convicted of crimes of negligence or political crimes, meaning acts classified as criminal solely because the perpetrator held political views differing from the ruling regime, the following provisions

apply:

- (i) former convicts sentenced to imprisonment for 5 (five) years or more must have fully served their sentence, whether imprisonment, a conditional sentence, or probation, and at least 5 (five) years must have elapsed since the completion of that sentence;
- (ii) former convicts sentenced to imprisonment for less than five years must have fully served their sentence, whether imprisonment, a conditional sentence, or probation, but they are not required to wait five years after completing their sentence;
- (iii) honestly and publicly disclose his/her status as a former convict through mass media. In subsequent general elections, this announcement need not be repeated provided that the electoral district remains the same; however, if the electoral district and/or level of the election changes, the disclosure through mass media must be repeated;
- (iv) honestly and openly declare/disclose his/her background as a former convict to the relevant General Elections Commission/Independent Elections Commission every time he/she participates in a general election through a candidacy application; and
- (v) is not a repeat offender;"

therefore, Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Enactment of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia the 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) fully reads:

"the Candidates for Governors and Deputy Governors, the Candidates for Regents and Deputy Regents, as well as the Candidates for Mayors and Deputy Mayors as referred to in paragraph (1) must fulfil the following requirements:

...

- g. for former convicts, except for those convicted of crimes of negligence or political crimes, meaning acts classified as criminal solely because the perpetrator held political views differing from the ruling regime, the following provisions apply:
 - (i) former convicts sentenced to imprisonment for 5 (five) years or more must have fully served their sentence, whether imprisonment, a conditional sentence, or probation, and at least 5 (five) years must have elapsed since the completion of that

sentence;

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- (iv) honestly and openly declare/disclose his/her background as a former convict to the relevant General Elections Commission/Independent Elections Commission every time he/she participates in a general election through a candidacy application; and
- (v) is not a repeat offender;”

3. To dismiss the remainder of the Petitioner’s petition

Date of Decision : Thursday, August 28, 2025

Overview of Decision:

The Petitioner is an Indonesian citizen who is a candidate for Regent of Boven Digoel in the 2024 Regent and Deputy Regent Election of Boven Digoel, he believes that his constitutional rights have been actually violated by Article 7 paragraph (2) letter g of Law 10/2016 which has been amended by the Constitutional Court Decision Number 56/PUU-XVII/2019. According to the Petitioner, the loss of his constitutional rights arises because the provision *a quo* does not ensure equal treatment and/or legal certainty regarding disciplinary violations between civil and military institutions, where leaving duty without permission (illegally without permission from superiors) for State Civil Apparatus and police officers is not included in the category of criminal acts, while for military officers it is included in the category of criminal acts. Therefore, according to the Petitioner, the provision of Article 7 paragraph (2) letter g of Law10/2016 is contrary to Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution.

With respect to the Court’s authority, because Petitioner petitions for a judicial review, *in casu* Article 7 paragraph (2) letter g of Law 10/2016 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Furthermore, with respect to the legal standing of the Petitioner, the Court considers that the Petitioner has the legal standing to file a petition to review the constitutionality of the provision *a quo*.

With respect to the subject matter of the petition, the Court considers that the provision of Article 7 paragraph (2) letter g of Law 10/2016 as interpreted in the Constitutional Court Decision Number 56/PUU-XVII/2019, has resulted in a violation of fair legal certainty and has the potential to cause discrimination, and is contrary to the provisions of Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia, as argued by the Petitioner. However, since the

Court's interpretation of the norm *a quo* is different from the one stated in the petition of the Petitioner, the Court is of the opinion that the Petitioner's argument is legally justifiable in part.

Pursuant to the arguments outlined by the Court in the Legal Considerations section, the Court passes down a decision which verdict states:

1. To grant the Petitioner's petition in part.
2. To declare that Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Enactment of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) as amended by the Constitutional Court Decision Number 56/PUU-XVII/2019, dated December 11, 2019, is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as

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- (iii) honestly and publicly disclose his/her status as a former convict through mass media. In subsequent general elections, this announcement need not be repeated provided that the electoral district remains the same; however, if the electoral district and/or level of the election changes, the disclosure through mass media must be repeated;
- (iv) honestly and openly declare/disclose his/her background as a former convict to the relevant General Elections Commission/Independent Elections Commission every time he/she participates in a general election through a candidacy application; and
- (v) is not a repeat offender;”

therefore, Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Enactment of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia the 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) fully reads:

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3. To dismiss the remainder of the Petitioner's petition.